

Office Action Summary

Application No.

10/750,889

Applicant(s)

KANAI ET AL.

Examiner

DIANE D. MIZRAHI

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DIANE D. MIZRAHI
PRIMARY EXAMINER

DETAILED ACTION

Claims 1- 9 are pending in the present application.

Examiner's Remarks

Applicant's Terminal Disclaimer has been received and approved.

In light of Applicant's newly submitted amendment of March 20, 2007, Examiner formally withdraws the Claim Rejections under 35 USC 112, second paragraph and the Claim rejection of claims 1-3 under 35 USC 101. Examiner maintains the 35 USC 101 for claims 4-9.

Based on Applicant's amendment, a new office action is required (see below):

Claim Rejections - 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

Claims 4- 9 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is "useful, tangible and concrete.

See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02 and Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557). The decisions state to be eligible for patent protection, the claimed invention as a whole must accomplish a practical application. A claim limited to a machine or manufacture, which has a practical application, is statutory. Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557). That is, it must produce a "useful, concrete and tangible result". The

Art Unit: 2165

purpose of this requirement is to limit patent protection to inventions that possess a certain level of “real world” value as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96 (1966); In re Fisher, 421 F.3d 1365, 76 USPQ 2d 1255 (Fed. Cir. 2005); In re Ziegler, 992 F.2d 1197, 1200-03, 26 USPQ 2d 1600, 1603-06(Fed. Cir.1993).

Regarding Claims 4-9, Examiner asserts that computer programs do not define any structural and functional relationships between the computer program and other claimed elements of a computer which permit the computer’s program functionality to be realized. Yet, a computer readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and thus is statutory.

Regarding Claims 4-6, Examiner notes that the claimed, “modules” which are computer programs as well as claims 7-9 which claims “program product” (i.e. computer programs). These claimed “modules” and “program product” are non-statutory.

For example regarding Claim 7, Applicant may select to amend the claims such that the limitation may read, “A computer program product having a computer readable medium for managing a resource management.... computer program product comprising: code stored on a computer readable medium, which when executed would cause the computer to: cause the computer to receive a data operation request....

Art Unit: 2165

Examiner recommends Applicant to amend the claims without adding any new matter to the originally filed specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Roy Aaron Underwood (US Patent No. 6523027 B1 date filed on July 30, 1999 and Underwood hereinafter).

Regarding Claim 1, Underwood teaches resource management system to be used in a management system for applying operations on data outputted from a data storage system and providing data to a processing of an application program, the resource management system comprising: a plurality of data operation modules configured to operate data which have different operation functions (Detailed Description, paragraphs:); and a resource manager (Detailed Description, paragraphs: 111, 1176, 1178, 1181) having a data operation module management table (Detailed Description, paragraphs: 42, 142, 285) to be used at a time of combining the plurality of data operation modules (Detailed Description, paragraphs: 12, 16, 28,279), the resource manager configured to receive a data operation request from the application program, refer the data operation module management table (Detailed Description,

Art Unit: 2165

paragraphs: 42, 142, 285) select and combine necessary data operation modules and output the selected and combined data operation modules such that the application program can carry out a desired operation using the selected and combined modules (Detailed Description Text (paragraph 995) necessary data operation modules of the plurality of data operation modules (Detailed Description, paragraphs: 2568 and 3557).

Regarding Claim 2, Underwood teaches a plurality of resource operation module managers each configured to manage one or more corresponding data operation modules of the plurality of data operation modules respectively (Detailed Description, paragraphs: 42, 142, 285).

Regarding Claim 3, Underwood teaches wherein the resource operation module management table records a correspondence between a name of each of the plurality of data operation modules and a pointer to one of the plurality of data operation module managers that manages the one or more corresponding data operation modules (Detailed Description, paragraphs: 44, 49, 51, 129, 2078).

Regarding Claim 4, Underwood teaches resource management method to be used in a data management method in a data management system having a plurality of data operation modules configured to operate data which have different operation functions, for applying operations on data outputted from a data storage system and providing data to a processing of an application program (Detailed Description, paragraphs: 44, 49, 51, 129, 2078) ... comprising:

receiving a data operation request from the application program; (i.e. application somewhere where it can be accessed by subsequent programs) (Detailed Description, paragraph 657);

Art Unit: 2165

referring to a data operation module management table which is used at a time of combining the data operations modules (Detailed Description Text (paragraph 995) ; and

selecting and combining data operation modules such that the application program can carry out a desired operation by using the selected and combined data operation modules (i.e. reads on making changes and save as necessary) (Detailed Description Text (paragraph 995).

Regarding Claim 5, Underwood teaches managing one or more corresponding data operation modules respectively at data operation managers (i.e. Detailed Description) (Paragraph Table paragraph 37).

Regarding Claim 6, Underwood teaches wherein the data operation module management table records a correspondence between a name of each data operation module and a pointer to a data operation module manager that manages that data operation module (i.e. reads on a database) (Detailed Description Paragraph Table), (paragraph 36).

Regarding Claim 7, Underwood teaches a computer program product for causing a computer to function as a resource management system to be used in a data management system having a plurality of data operation modules configured to operate data which have different operation functions, for applying operations on data outputted from a data storage system and providing data to a processing of an application program, the computer program product comprising:

a first computer program code for causing the computer to receive a data operation request from the application program (Detailed Description, paragraph 657);

a second computer program code for causing the computer to refer a data operation module management table which is used at a time of combining the plurality of data operation

Art Unit: 2165

modules (Detailed Description Text (paragraph 995);

and a third computer program code for causing the computer select and combine necessary data operation modules and output the selected and combined data operation modules such that the application program can carry out a desired operation by combining necessary data operation modules of the plurality of data operation modules (Detailed Description Text (paragraph 995)).

Regarding Claim 8, Underwood teaches a fourth computer program code for causing the computer to manage one or more corresponding data operation modules of the plurality of data operation modules respectively at each of a plurality data operation managers (i.e. configuration management repositories) (Detailed Description Text (paragraph 481) .

Regarding Claim 9, Underwood teaches wherein the data operation module management table records a correspondence between a name of each of the plurality of data operation modules and a pointer to one of the plurality of data operation module managers that manages the one or more corresponding data operation modules (i.e. reads on a database) (Detailed Description Paragraph Table), (paragraph 36).

Comments

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH

Art Unit: 2165

statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Other Prior Art Made of Record

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday.

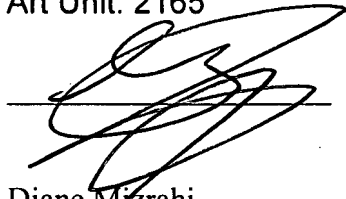
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Application/Control Number: 10/750,889

Page 9

Art Unit: 2165

A handwritten signature in black ink, appearing to be 'Diane Mizrahi', written over a horizontal line.

Diane Mizrahi
Primary Patent Examiner
diane.mizrah@uspto.gov
Technology Center 2100

June 10, 2007